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IN THE UNITED STATES PATENT AND
TRADEMARK OFFICE

In the application of : Eleanor L. Schuler, et al.

Serial No. : 10/085, 386

Filed : February 28, 2002

For : Electrical Method To Control Autonomic Nerve
Stimulation of Gastrointestinal Tract

Examiner : Scott M. Getzow

Art Unit : 3762

I hereby certify that this correspondence is being transmitted to Commissioner of Patents,
Group Art Unit 3762, (703) 872-9302 on August 14, 2003
Name of person signing Nellie J. Painter
Signature Nellie J. Painter

RESPONSE TO OFFICE ACTION OF MAY 14, 2003

Honorable Director of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir,

This response is being filed in view of the Examiner's Office Action of May 14, 2003. No amendments are being offered as no amendments are believed to be necessary.

The Examiner has rejected claims 1 - 10 under 35 U.S.C. §103 as being obvious over Bardy U.S. Patent No. 6,238,423. Reconsideration is requested, because, upon reconsideration, it will be seen that Bardy, although relevant prior art, is not related to the invention of the present application, as claimed.

Bardy is directed to a device and method for treating chronic constipation. As Bardy notes, electrical stimuli are applied to muscles associated with the

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gastrointestinal tract in order to supposedly treat constipation.

The present invention is directed to nerve stimulation of the gastrointestinal tract. To that extent, there is a similarity with Bardy. Beyond that, however, the invention of the present application, as claimed, quite different.

Turning first to method claim 1, claim 1 specifically requires "selected waveforms, generated in the body and carried by neurons in the body". It is those waveforms that are then transmitted to a treatment member and then broadcast into the body.

Bardy only treats constipation. Bardy uses simple wave form shocks. Bardy does not use the natural signals of the brain nor of the gastrointestinal tract. In fact, Bardy does not recognize that such signals can or should be used, as the inventors of the present application are the first known inventors to have discovered that such signals exist and can be used for treatment.

The inventors of the present application have filed several other applications with the United States Patent and Trademark Office for treatment and stimulus of other body functions and organs. For example, the inventors' US Patent Application Serial No. 10/006,471 filed December 4, 2001 has claims of the same nature of the claims of the present application, but directed to another body area. The claims of that application have been allowed by the Patent and Trademark Office, the Issue Fee has been paid on August 12, 2003, and the patent is expected in due course. In the '471 application, prior art uncovered also, similar to Bardy, has nothing to do with using waveforms generated in the body and carried by neurons in the body. That application was therefore allowed in the Examiner's first action.

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It is therefore submitted that claim 1 clearly distinguishes from Bardy and is allowable thereover. As claims 2 through 4 depend from claim 1, those claims are submitted to be allowable as well.

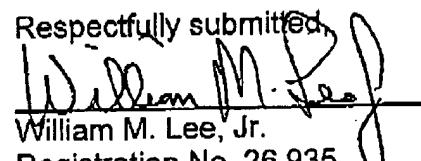
Claim 5 is directed to the apparatus, and contains similar language. In subparagraph "a", claim 5 requires "a source of collected waveforms indicative of body organ functioning". Those waveforms are then transmitted from a treatment member to the body organ to stimulate organ function.

Again, nothing of this nature is shown or suggested by Bardy. Bardy simply generates wave form shocks, and has not collected, or recognized, that waveforms indicative of body organ functioning exist. Thus, it is submitted that claim 5, and depending claims 6 through 10, also distinguish from, and are allowable over, Bardy and any other known prior art.

The Examiner's further and favorable reconsideration of the application is therefore urged.

August 14, 2003

Respectfully submitted,


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